

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

LLOYD GEORGE MORGAN	:	
	:	PRISONER CASE NO.
v.	:	3:08-cv-713 (JCH)
	:	
D. BAKER, et al.	:	NOVEMBER 4, 2008

RULING ON MOTION FOR RELIEF FROM JUDGMENT AND CONSIDERATION  
[Doc. No. 9]

On June 24, 2008, the court dismissed this case without prejudice because plaintiff failed to exhaust his institutional remedies before filing suit. See Doc. No. 7. Plaintiff has filed a motion asking the court to alter the judgment to dismiss the case with prejudice and to waive collection of the filing fee.

Plaintiff states that he has reached an agreement with the defendants that he will not refile this action after exhausting his institutional remedies and asks the court to order that the case be dismissed with prejudice. Plaintiff's request is granted.

Plaintiff also asks the court to waive collection of the filing fee. The federal statute states that any prisoner filing a civil action must pay the full filing fee. 28 U.S.C. § 1915(b)(1). See Jones v. Orth, 242 F.3d 389 (10<sup>th</sup> Cir. 2000) (holding that prisoner must pay filing fee even if complaint is dismissed); see also Leonard v. Lacy, 88 F.3d 181 (2d Cir. 1996) (noting that "requirement of payment of full amount of a filing fee is imposed 'if a prisoner *brings* a civil action . . .'" (emphasis in original)). Not only was a complaint filed in this case, but it proceeded to judgment. Accordingly, his request for waiver of the filing fee is denied.

In conclusion, plaintiff's Motion for Relief from Judgment and for Consideration [Doc. No. 9] is **GRANTED** as to plaintiff's request that this action be dismissed with prejudice and **DENIED** as to the request for waiver of the filing fee.

**SO ORDERED.**

Dated at Bridgeport, Connecticut this 4th day of November, 2008.

/s/ Janet C. Hall  
Janet C. Hall  
United States District Judge